

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA No. 5133 of 2013 (O&M)
Date of Decision : 12.02.2016

Thana Singh

....Appellant

Versus

Godha Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Inderjit Sharma, Advocate
for the appellant.

Surinder Gupta, J.

This is second appeal against the judgment passed by Additional Civil Judge (Senior Division), Bathinda, whereby suit filed by plaintiff (appellant) challenging transfer deed No. 12408 dated 06.03.2006, executed by Godha Singh in favour of defendants no. 2 and 3 with regard to 1440/2829 share (72 *kanals* 0 *marla*) out of land measuring 141 *kanals* 9 *marlas*, as fully described in the headnote of plaint, was dismissed. On appeal by plaintiff-appellant, the findings of learned Additional Civil Judge (Senior Division), Bathinda were affirmed by Ist Appellate Court.

2. In later part of the judgment, parties will be referred as 'plaintiff' and 'defendants' as per civil suit.

3. Plaintiff challenged the above transfer deed executed by his father on the ground that suit land is joint Hindu family coparcenary property in the hands of defendant no. 1 as *karta* of the family. On appraisal of evidence on record, the Court below concluded that the suit property is not proved to be joint Hindu family coparcenary property, as such, alienation made by Godha Singh vide registered sale deed dated 06.03.2006 is valid.

4. I have heard learned counsel for the appellant and have

also perused the lower Court record with his assistance.

5. Learned counsel for the appellant could not assail the finding of Additional Civil Judge (Senior Division), Bathinda in order to prove that suit property is joint Hindu family coparcenary property. The party, alleging so, has to prove by leading cogent and convincing evidence that it has come in the hands of alleged *karta* from his ancestors by way of survivorship. Admittedly, the land measuring 141 *kanals* 9 *marlas* was owned by three brothers, namely; defendant no. 1-Godha Singh, Bogha Singh and Mukhtiar Singh. After death of Mukhtiar Singh, his share was inherited by his mother-Raj Kaur, who transferred the same in the name of Godha Singh. The share of Bogha Singh was also inherited by Godha Singh. There is no evidence on file to prove that father of Godha Singh had inherited the suit land from his father by way of survivorship. No documentary evidence is on record to prove this fact.

5. Learned counsel for the appellant could not make out that concurrent findings of both the Courts below are based on misreading of evidence or any evidence on record has been ignored while reaching the conclusion that plaintiff had failed to prove that suit property was joint Hindu family coparcenary property.

6. No other argument has been raised by learned counsel for the appellant.

7. On perusal of judgments of both the Courts below, I find no legal or factual infirmity therein calling for any interference. No substantial question of law, requiring determination, arises in this appeal, which has no merit.

Dismissed.

February 12, 2016

**(SURINDER GUPTA)
JUDGE**